

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

Adjustacam LLC, )  
                        )  
Plaintiff,         )  
                        )  
vs.                   ) Civil Action No. 6:10-cv-329  
                        )  
Amazon.com, Inc. et al., )  
                        )  
Defendants.         ) **JURY TRIAL DEMANDED**  
                        )  
                        )  
                        )

**DEFENDANT CDW LLC'S ANSWER  
TO ADJUSTACAM'S FIRST AMENDED AND SUPPLEMENTAL COMPLAINT**

Defendant CDW LLC<sup>1</sup> (“CDW”), by its attorneys, Marshall, Gerstein & Borun LLP, hereby submits its Answer to the First Amended and Supplemental Complaint and Jury Demand of Plaintiff Adjustacam LLC (“Adjustacam”).

**THE PARTIES**

1.       CDW is without information sufficient to form a belief as to such allegations and, on that basis, denies the same.

2.       No answer from CDW is required. CDW is without information sufficient to form a belief as to such allegations and, on that basis, denies the same.

3.       No answer from CDW is required. CDW is without information sufficient to form a belief as to such allegations and, on that basis, denies the same.

4.       No answer from CDW is required. CDW is without information sufficient to form a belief as to such allegations and, on that basis, denies the same.

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<sup>1</sup> On December 31, 2009, “CDW Corporation” merged into CDWC LLC, an Illinois limited liability company, and the name of CDWC LLC was changed to “CDW LLC” as of that date. The party making this Answer is CDW LLC.

5. No answer from CDW is required. CDW is without information sufficient to form a belief as to such allegations and, on that basis, denies the same.

6. On December 31, 2009, "CDW Corporation" merged into CDWC LLC, an Illinois limited liability company, and the name of CDWC LLC was changed to "CDW LLC" as of that date. CDW admits that CDW LLC is an Illinois limited liability company having a principal place of business at 200 N. Milwaukee Avenue, Vernon Hills, IL 60061.

7. On December 31, 2009, "CDW Corporation" merged into CDWC LLC, an Illinois limited liability company, and the name of CDWC LLC was changed to "CDW LLC" as of that date. CDW admits that CDW LLC is an Illinois limited liability company having a principal place of business at 200 N. Milwaukee Avenue, Vernon Hills, IL 60061.

8. No answer from CDW is required. CDW is without information sufficient to form a belief as to such allegations and, on that basis, denies the same.

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#### **JURISDICTION AND VENUE**

58. CDW admits that Plaintiff's First Amended and Supplemental Complaint purports to state causes of action under the United States patent laws and that, therefore, the Court has subject matter jurisdiction over Plaintiff's claims. To the extent these allegations apply to CDW, CDW also admits that it maintains at least one website. CDW otherwise denies the allegations of this paragraph, and specifically denies any infringement of any valid and enforceable claim of the patent identified in Paragraph 60, and denies that it has conducted any acts in this forum that subject it to specific or general jurisdiction as alleged.

59. To the extent these allegations apply to CDW, CDW admits that it maintains at least one website. CDW otherwise denies the allegations of this paragraph, and specifically denies any infringement of any valid and enforceable claim of the patent identified in Paragraph 60, denies that venue is proper in this District, and denies personal jurisdiction as alleged.

#### **PATENT INFRINGEMENT COUNT**

60. CDW admits that U.S. Patent No. 5,855,343 ("the '343 patent") is titled "Camera Clip" and has a cover page that indicates that the patent was filed for on March 7, 1997 and issued on January 5, 1999. CDW is without information sufficient to form a belief as to any other allegations in this paragraph and, on that basis, denies the same.

61. CDW admits that for the '343 patent there is a purported assignment of interest from WIYN Investments, LLC to Globalmedia Group, LLC recorded with the Patent & Trademark Office on February 23, 2006. CDW is without information

sufficient to form a belief as to any other allegations in this paragraph and, on that basis, denies the same.

62. CDW denies each and every allegation of paragraph 62 of the First Amended and Supplemental Complaint.

63. No answer from CDW is required. CDW is without information sufficient to form a belief as to such allegations and, on that basis, denies the same.

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75. CDW denies any infringement of any valid and enforceable claim of the '343 patent.

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212. No answer from CDW is required. CDW is without information sufficient to form a belief as to such allegations and, on that basis, denies the same.

213. No answer from CDW is required. CDW is without information sufficient to form a belief as to such allegations and, on that basis, denies the same.

214. No answer from CDW is required. CDW is without information sufficient to form a belief as to such allegations and, on that basis, denies the same.

215. No answer from CDW is required. CDW is without information sufficient to form a belief as to such allegations and, on that basis, denies the same.

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221. No answer from CDW is required. CDW is without information sufficient to form a belief as to such allegations and, on that basis, denies the same.

222. No answer from CDW is required. CDW is without information sufficient to form a belief as to such allegations and, on that basis, denies the same.

223. To the extent the allegations of this paragraph apply to CDW, CDW denies such allegations. To the extent the allegations of this paragraph apply to entities other than CDW, no answer from CDW is required, and CDW is without information sufficient to form a belief as to such allegations and, on that basis, denies the same.

224. To the extent the allegations of this paragraph apply to CDW, CDW denies such allegations. To the extent the allegations of this paragraph apply to entities other than CDW, no answer from CDW is required, and CDW is without information sufficient to form a belief as to such allegations and, on that basis, denies the same.

225. To the extent the allegations of this paragraph apply to CDW, CDW denies such allegations. To the extent the allegations of this paragraph apply to entities other than CDW, no answer from CDW is required, and CDW is without information sufficient to form a belief as to such allegations and, on that basis, denies the same.

226. This paragraph contains conclusions of law and not averments of fact to which an answer is required, but to the extent required, CDW denies the allegations of this paragraph.

#### **PRAYER FOR RELIEF**

CDW denies the allegations of Plaintiff's Prayer for Relief and Jury Demand, and denies that Plaintiff is entitled to any of the requested relief.

#### **OTHER DEFENSES**

1. CDW has not infringed, and is not infringing, directly or indirectly, any valid claim of the '343 patent.

2. On information and belief, and after a reasonable opportunity for further investigation and discovery, the claims of the '343 patent are invalid for failing to satisfy one or more of the conditions of patentability of Title 35 of the United States Code, including, but not limited to, sections 101, 102, 103 and 112.

3. Plaintiff has failed to state a claim against CDW upon which relief can be granted.

4. On information and belief, some or all of the relief sought by Plaintiff is barred by the doctrine of prosecution history or judicial estoppel.

5. Plaintiff's claims and/or the damages sought are barred under the doctrine of laches, waiver or due to Plaintiff's acquiescence.

6. Plaintiff's claims are precluded to the extent that any accused products are supplied, directly or indirectly, to CDW or to another entity, having an express or implied license or covenant not to sue.

7. Plaintiff's claims are limited under 28 U.S.C. section 1498.

8. The relief sought by Plaintiff is barred in whole or in part by the terms of 35 U.S.C. sections 286 and 287.

9. As discovery may reveal the existence of other defenses, CDW reserves the right to seek leave to amend this Answer and to allege any and all defenses that may be applicable.

WHEREFORE, CDW respectfully prays that this honorable Court enter judgment in this cause as follows:

A. Dismissing Plaintiff's First Amended and Supplemental Complaint in its entirety with prejudice and denying Plaintiff all relief;

B. Awarding CDW its costs reasonably incurred in defending against this action;

C. If the facts of this case warrant, declaring this case to be exceptional pursuant to Section 285 of Title 35 of the United States Code and awarding CDW its attorneys' fees reasonably incurred in defending against this action; and

D. Awarding CDW such further relief as this honorable Court deems just and reasonable under the circumstances.

**JURY DEMAND**

CDW hereby requests trial by jury of all issues properly so triable.

Dated: September 17, 2010

Respectfully submitted,

/s/ Thomas L. Duston

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*Attorneys for Defendant CDW LLC*

**CERTIFICATE OF SERVICE**

I, Benjamin T. Horton, an attorney, hereby certify that on September 17, 2010, I caused a copy of the foregoing DEFENDANT CDW LLC'S ANSWER TO PLAINTIFF'S FIRST AMENDED AND SUPPLEMENTAL COMPLAINT, to be electronically filed using the CM/ECF system, which sent notification of such filing to all counsel of record.

/s/ Benjamin T. Horton  
Benjamin T. Horton